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DOCKET NO.: C1039.70083US06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Krieg et al.  
Serial No.: 10/789,051  
Confirmation No.: 8295  
Filed: February 26, 2004  
For: IMMUNOMODULATORY OLIGONUCLEOTIDES  
Examiner: O. Ogunbiyi  
Art Unit: 1645

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 26<sup>th</sup> day of October, 2007.

  
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Jamieson K. Herrick

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**MAIL STOP AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENT FILED PURSUANT TO THE DUTY OF  
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

**PART I: Compliance with 37 C.F.R. §1.97**

This Information Disclosure Statement has been filed more than three months after the filing date of this application and after the mailing date of the first Office action, but before the mailing date of any final action under 37 C.F.R. §1.113, a Notice of Allowance under 37 C.F.R. §1.311, or an action that otherwise closes prosecution in this application.

The fee of \$180.00 as set forth in 37 C.F.R. §1.17(p) is enclosed.



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Jamieson K. Herrick

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Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

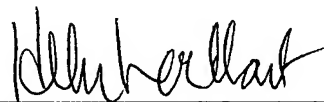
- Information Disclosure Statement
- PTO Form 1449 with cited references
- Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 646-8000, Boston, Massachusetts.

A check in the amount of \$180.00 is enclosed to cover the filing fee. If the fee is insufficient, the balance may be charged to Deposit Account 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,

By:



Helen C. Lockhart, Ph.D., Reg. No.: 39,248  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
Telephone: (617) 646-8000

Docket No.: C1039.70083US06  
Date: October 26, 2007  
xNDDx

PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified PTO/SB/08). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant would like to bring to the Examiner's attention the following co-pending applications that may contain subject matter related to this application:

<u>Serial No.</u>	<u>Filing Date</u>	<u>Inventor(s)</u>	<u>Docket No.</u>
11/706,561	02-15-2007	Uhlmann et al.	*C1041.70046US02
11/725,339	03-19-2007	Schetter et al.	*C1041.70019US01
11/810,353	06-05-2007	Krieg et al.	*C1039.70048US25
11/901,712	09-17-2007	Schetter et al.	**C1039.70069US01

\*A copy of this reference is not provided as the Office has waived the requirement under 37 C.F.R. 1.98(a)(2)(iii) for submitting a copy of a cited U.S. patent application if it is scanned to the Image File Wrapper system and is available on Private PAIR.

\*\*a copy of this reference is not provided as it was previously cited by or submitted to the office in a prior application, Serial No. 10/690,495, filed October 21, 2003, and relied upon for an earlier filing date under 35 U.S.C. 120 (continuation, continuation-in-part, and divisional applications).

The Applicant hereby makes the following additional information of record in the above-identified application, a copy of which is enclosed:

**Office Communication mailed 03/28/2007 for Application No. 10/789,353 (C1039.70083US07)**

The Applicant would like to bring to the Examiner's attention the following other information, whose relevance is discussed in Part III below:

PART III: Explanation of Non-English Language References and Remarks Concerning Other Information Cited

The following are remarks concerning the other information cited:

The instant patent application derives priority from US 6,194,388 B1, which is a priority application for US 6,207,646 B1, which is a priority application for US patent application 09/337,584 with claims directed to the treatment of asthma, now in an Interference (No. 105,526). In view of the priority, copies of papers filed with respect to that Interference were previously submitted in Serial No. 10/690,495, filed October 21, 2003, to which the instant application derives priority. If the Examiner would like any additional information on this subject, he is encouraged to contact Applicant's representative at the number listed below.

PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 (modified PTO/SB/08) be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

Serial No.: 10/789,051  
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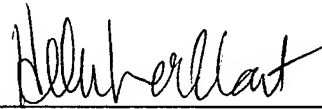
By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his or her own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,

By:



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Wolf, Greenfield & Sacks, P.C.  
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Boston, Massachusetts 02210-2206  
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